GPN-J.332-ARCHB-8.94-1310500-ALA4 Spl-H.C.A.S.C.D.79e

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 3062 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Ms. Nandini Gupta i/by M.P. Vashi and Associates for Petitioner.

Mr. R.D. Rane, A.G.P. for Respondent No. 2.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : FEBRUARY 02, 2005

P.C.

. The Petitioner came to this court praying for the relief of arrears of salary along with interest at the rate of 18% p.a. In other words the suit was really for recovery of money. The Petition really ought not be entertained. However, considering that the petitioners are teachers, we have heard the argument on that count. The Respondent Management have filed affidavit dated 17.12.2004. In Paragraph 2 of the said affidavit of Shevale Pandit Shivram, Jt. Secretary,

following averment is made :

> "Thereafter, the post was not approved as no student strength was available, his services are terminated. Thus from 30th April, 2002, the Petitioner is not working."

. Thus from 30.4.2002 the Petitioner is not working. In other words, the stand of the management is that the Petitioner is no longer in service. The services has been terminated. Once that be the case, the remedy for the Petitioner wold to be approach the tribunal for appropriate relief. It is for the tribunal to decide whether the Petitioners services are terminated or the contention of the Petitioners that the termination is illegal for whatever reasons, or that the petitioner still continues in service.

. The Respondent Management has paid petitioner sum of Rs.1,94,926/-. A zerox copy of that account payee cheque is submitted by the counsel for the respondent Management. It is the case of the Management that it has been sent by

registered post on 22.1.2005. The same is taken on record. If there be the dispute that the wages for the period upto 30.4.2002 have not been properly calculated, respondent No. 3 on representation being made by the petitioner after hearing the Petitioner and Respondent nos. 1 and 2 to take decision and pass appropriate orders. If any further amounts are due and payable, Respondent Nos. 1 and 2 will comply with the orders passed by Respondent No. 3 subject to whatever their rights they may have to challenge the said order. With above directions, Petition stands disposed of. No order as to costs.

(F.I.REBELLO,J.)

(S.P.KUKDAY,J.)